

EXHIBIT A

1 G3M5terA

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

-----x

4
5 IN RE: TERRORIST ATTACKS ON
6 SEPTEMBER 11, 2001,

7 v.

8 03 MDL 1570 (FM)

9
10 -----x
11 New York, N.Y.
12 March 22, 2016
13 10:20 a.m.

14 Before:

15 HON. FRANK MAAS,

16 Magistrate Judge

17

18

19

20

21

22

23

24

25

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

G3M5terA

1 document requests and are producing documents, and that
2 plaintiffs should look exclusively to those productions in
3 relation to the discovery we are seeking from the individuals.

4 Obviously, your Honor, the rules require that the
5 defendants respond individually to the document requests
6 directed to them and the fact that other defendants may or may
7 not be producing documents relating to the same areas of
8 inquiry does not relieve them of their independent discovery
9 obligations.

10 The related problem is that even if a party to
11 litigation could rely on the separate discovery responses of
12 another party to satisfy its obligations, the reality is that
13 many of the charities these officials had roles in are not
14 meaningfully participating in discovery at all. So, for
15 example, your Honor, Abdullah Naseef was not merely the
16 secretary of the Muslim World League, he also founded
17 Rabidi Trust and that, your Honor will recall, was designated
18 by the United States government, failed to participate in
19 discovery in the case, and was ultimately defaulted by this
20 Court.

21 Naseef also had relationships with individuals of
22 considerable interest. For example, he was responsible for
23 appointing Wael Jelaidain to his position in the Muslim World
24 League; also responsible for appointing Osama Bin Laden's
25 brother-in-law, Mohammed Jamal Khalifa to the designated IIRO

G3M5terA

1 branch in the Philippines. Abdullah Bin Saleh Obaid was, in
2 addition to his secretary of Muslim World League also an
3 officer of Rabidi Trust and of many of the Sanabel entities
4 that were incorporated in the items.

5 Your Honor will recall that the Sanabel entities in
6 the United States have stated that they no longer have any
7 records relating to the periods of greatest interest including
8 the period when Obaid was an officer of the entity, Abdullah
9 bin Muhsen al Turki, your Honor, is currently the head of the
10 Muslim World League and therefore in a position to direct that
11 entity to respond to request relating to his position.

12 Before that, he was the Saudi Minister of Islamic
13 Affairs from 1993 to 1999. In that capacity he had a
14 supervisory role over all of the kingdom's proselytizing
15 organizations according to the 9/11 Commission, the Muslim
16 World League, the International World Islamic Relief
17 Organization, the World Assembly of Muslims and al-Haramain
18 Islamic Foundation.

19 We also know, your Honor, that al-Haramain filed an
20 affidavit early in the case when it was still participating in
21 which it specifically stated that al-Haramain works under the
22 supervision of the Audi Minister of Islamic affairs who
23 appoints its board members and senior management personnel.

24 And, again, al-Haramain Saudi Arabia is no longer
25 participating in the proceedings.

G3M5terA

1 filed an affidavit at one point way back in 2011 stating that
2 the IIRO had two kinds of documents; public documents and
3 documents that were protected from discovery by virtue of the
4 king and his immunity.

5 Now, again, that objection was withdrawn entirely but
6 it does indicate a certain desire to protect certain categories
7 of documents relating to the activities of the charities from
8 disclosure because of the governmental character. There is
9 just no basis to do that.

10 I think, your Honor, there was a recent article in the
11 New York Times in September of 2015 that underscores the issue
12 and that I shared with Mr. Kabat in advance of the hearings.
13 It was issued in September of 2015 and describes the kingdom's
14 efforts to both spread a certain variant of Islam and use those
15 efforts to counter Iranian influence and describes the very
16 close coordination within the Saudi government in doing that.

17 The report indicates that the documents describe an
18 extensive apparatus inside the Saudi government dedicated to
19 missionary activity that brings in officials from the foreign
20 interior and Islamic affairs ministry, the intelligence
21 service, and the office of the king. It goes on to say the
22 intelligence agency, sometime potentially the Saudi-supported
23 Muslim World League helps coordinate strategy.

24 And so, what we understand from all of the information
25 we have gathered largely on our own that these are very

G3M5terA

1 significant positions of respect and of achievement relative to
2 which these individuals interacted, traveled with, met with
3 some of the most senior officials of the Saudi government, as
4 well as foreign dignitaries. People who reach that level of
5 accomplishment maintain some record of their life's work, your
6 Honor, and we are to believe that all four of these individuals
7 are so devoid of any interest in their own accomplishments that
8 they haven't retained a single record responsive to plaintiff's
9 requests? That simply can't be the case. They routinely gave
10 speeches at international conferences, they attended world
11 summits, they met with world leaders. They have some records
12 in their possession that are responsive and we would simply ask
13 that they be directed to undertake the reasonable and necessary
14 efforts to collect them and produce them.

15 Thank you, your Honor.

16 THE COURT: Thank you.

17 Mr. Kabat, why don't you use the microphone over
18 there.

19 MR. KABAT: Your Honor, again, we need context of the
20 discovery.

21 What plaintiffs have not told you is that they served
22 a total of 129 document requests on the four charity officers
23 but of those 129 requests, 97 were identical or substantively
24 identical to the merits discovery request that they served on
25 the Muslim World League and the IIRO.

G3M5terA

1 sureties because there is no evidence of day-to-day control and
2 it appeared that the only reason the plaintiffs are really
3 seeking this discovery from the four defendants is not to prove
4 their liability, instead it is a backdoor way to get the
5 government back in the case. An example of that was yesterday
6 Mr. Carter sent me an article from the New York Times which he
7 said he was going to rely upon today. That article actually
8 came out in July of 2015, it is based on WikiLeaks which is
9 double hearsay --

10 THE COURT: It is based on what?

11 MR. KABAT: WikiLeaks --

12 THE COURT: Okay.

13 MR. KABAT: -- which of course is double hearsay, but
14 the article that Mr. Carter gave me yesterday and aid he was
15 going to rely on specifically says the documents do not show
16 any Saudi support for militant activity.

17 That's what Mr. Carter wanted to rely upon today.

18 The last point I want to make is that plaintiffs, in
19 their document requests, had numerous requests relating to the
20 golden chain which he may remember from years ago when Judge
21 Casey had this case --

22 THE COURT: Let me save you some time. I'm not going
23 to require the production of any documents related to the
24 golden chain so we can move on from there.

25 MR. KABAT: Thank you.

G3M5terA

1 response was go look at what the charities produced. And what
2 we are really here about is compelling the defendants to
3 conduct their own searches.

4 MR. KABAT: Your Honor, regardless of whether the
5 request asked for the passport, the reality is the plaintiffs
6 simply cut and pasted their merits discovery into the four
7 individual defendants and they have not bothered -- they have
8 not bothered -- to meet with us, to send us a discovery
9 deficiency letter, completely at all with Rule 37 meet and
10 confer requirement.

11 THE COURT: Well, but the passports would seem to be
12 something that the charities would not have produced that
13 perhaps -- well, I don't see one that relates to passports but
14 I do see 89: Provide all documents relating to any trips you
15 took to Sudan; and 90 is the same for trips to Afghanistan.
16 Let me take a moment and look at the responses.

17 (pause)

18 THE COURT: Unfortunately they don't track from
19 defendant to defendant.

20 (pause)

21 THE COURT: Well, here. For 89 and 90 the answer to
22 both is: See objections to document request no. 10. Document
23 request no. 10 says: Defendant objects to this request as
24 overly broad seeking documents relating to his employment with
25 the government of the Kingdom of Saudi Arabia which has

G3M5terA

1 sovereign immunity; improperly seeks official records of the
2 Saudi government; improperly seeks business records of the MWL
3 and IRRO; and goes on and on. And going back to the specific
4 answers it says: Defendant will produce responsive documents,
5 if any, when available.

6 So, I think what I am going to do is, first of all,
7 invoke the current version of Rule 34 -- bear with me a
8 second -- which requires that an objection state
9 specifically -- let me read it: *An objection must state*
10 *whether any responsive materials are being withheld on the*
11 *basis of that objection.*

12 So, I am going to require several things. First, a
13 sworn or affirmed certification from each of the four charity
14 defendants that except to the extent to which they have
15 specified that a document is being withheld, they have produced
16 all documents responsive to the requests unless those documents
17 are part of the productions of the MWL or IIRO. Secondly, that
18 there be a privilege log if there are documents being withheld
19 on the basis of privilege.

20 I think at the moment that's all I need direct with
21 respect to the motion related to these four defendants.

22 Is there something else you seek, Mr. Carter, at the
23 moment?

24 MR. CARTER: Your Honor, only based on the response
25 that you read to the request, which very much seemed to invoke

G3M5terA

1 discovery and we have not undertaken a search for that.

2 THE COURT: Well, I think by invoking the provision of
3 Rule 34 that I have directed you to comply with, it will become
4 clear whether you are withholding documents. I think there may
5 be categories of documents or requests as to which your
6 response is we have nothing beyond what the corporate charities
7 have produced and therefore there is not much point in worrying
8 about whether the request relates to jurisdictional or merits
9 discovery.

10 If, at the end of the process I have just directed
11 there are lingering issues, you can bring those back to the
12 Court or Mr. Carter can, but I think for the moment this takes
13 us further down the road.

14 MR. KABAT: Thank you.

15 MR. CARTER: Thank you, your Honor.

16 THE COURT: You said you had two points?

17 MR. KABAT: Pardon?

18 THE COURT: I guess the other was the golden chain.
19 Thank you.

20 MR. CARTER: Your Honor, I'm sorry.

21 THE COURT: Yes.

22 MR. CARTER: With regard to the golden chain, and I
23 don't want to belabor this point because I understand the
24 Court's ruling, but there are people on the golden chain other
25 than the contributors, for instance Wael Jelaidain is listed on

G3M5terA

1 the golden chain, Osama Bin Laden is listed on the golden
2 chain. And so, we just want clarity that you are not talking
3 about those people.

4 THE COURT: That's correct.

5 MR. CARTER: Thank you.

6 THE COURT: I am talking specifically about the
7 requests that use the phrase "and seek those documents."

8 MR. CARTER: Thank you, your Honor.

9 THE COURT: So, if there were other more specific
10 requests, those, of course, are not affected by that ruling.

11 MR. CARTER: Thank you, your Honor.

12 THE COURT: We can break for lunch now or we can deal
13 with the next one.

14 Mr. Haefele?

15 MR. HAEFELE: I leave it up to you, your Honor.

16 THE COURT: Why don't we move on.

17 Okay. Fire away, Mr. Haefele.

18 MR. HAEFELE: Your Honor, I think it is a good
19 afternoon at this point. We made it past, into the afternoon.

20 Robert Haefele from Motley Rice for the plaintiffs,
21 your Honor. I am here to talk about the plaintiff's motion
22 regarding Soliman Al-Buthe.

23 Much of what Mr. Charter had to say about the other
24 charity officials applies also to Mr. Al-Buthe and I refer back
25 to the dialogue that you had with Mr. Carter for what was said

G3M5terA

1 defendants and not Mr. Al-Buthe's property. I take a different
2 view; namely, if there were documents in his possession that
3 relate to those entities that are responsive, they have to be
4 produced. The objections that have been asserted are
5 essentially all boiler plate. The letter that I received
6 essentially talks about several things that I don't think are
7 relevant, one of which is, as I discussed with Mr. Haefele and
8 we all had some interchange about, the fact of delisting and
9 also the collapse of the Oregon criminal case which occurred
10 for a number of reasons, none of which relate to whether
11 Mr. Al-Buthe is or is not somebody who supports terrorism in a
12 fashion that impacted the United States.

13 Among other things, there is, as I think indicated in
14 a footnote, there was a different standard applicable to the
15 criminal case in terms of burden of proof, and obviously Grady
16 applies as a concept in the criminal case and apparently may
17 have been somewhat tortured and is not applicable in this
18 setting.

19 So, I am going to require production of the documents
20 that the plaintiffs seek as well as a certification that
21 Mr. Al-Buthe has produced all the responsive documents in his
22 possession, custody or control.

23 So, that's my ruling regarding Mr. Al-Buthe.

24 MR. KABAT: Your Honor, one question?

25 THE COURT: Yes, sure.